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2006-94/s

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2006 JAN -9 PM 4:39
SC PUBLIC SERVICE
COMMISSION

January 9, 2006

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210
VIA HAND DELIVERY

Re: ORS Comments to the Commission's Proposed Changes to Article 7

Dear Mr. Terreni:

Following is a list of additional comments by the ORS Staff regarding the Commission's proposed changes to Article 7 (Water Utilities) of the Commission's Regulations. One overall comment from the ORS regarding the revision of both Articles 5 and 7 is a request that the Commission consider the possibility of combining these two into a single article, as the majority of Regulations in the two Articles have identical language. Subarticles specific to water or wastewater could contain the limited regulations which are solely related to those areas. This merger would significantly reduce the overall number of regulations and potentially relieve any confusion within the industry for those utilities which operate both water and wastewater facilities. Water or wastewater specific regulations could be addressed in water and wastewater subarticles.

The ORS appreciates the opportunity afforded it by the Commission in the continued development of these regulations.

1. **103-705.** The ORS suggests that the language of the Regulation be amended as follows: "Each utility shall adopt rules, regulations, operation procedure policies, terms and conditions, etc. as may be necessary in the operation of the utility. Such service "conditions/or regulations" shall be approved by and filed with the ~~Commission~~ ORS along with certification that these rules are consistent with the rules of the Commission."
2. **103-710.** The ORS recommends that the second sentence of this Regulation be amended as follows: "These records shall be available for examination by the ~~Commission~~ ORS or its authorized representatives at all reasonable hours."
3. **103-711.** The ORS requests that the below or similar language be added as a second sentence to this regulation: "All records related to a test year used in a rate adjustment proceeding shall be preserved for two years or throughout the period that the Order by the Public Service Commission concerning the rate adjustment may be appealed, whichever is later. Furthermore,

the utility shall maintain beyond this two-year period sufficient records necessary to verify and substantiate all requirements included in these rules.”

4. **103-712(1).** The ORS recommends that the word “Commission” be replaced with the term “ORS” in the second sentence of this regulation. As this change was made to the similar wastewater regulation the ORS believes that the failure to make this change in this Regulation is a mere oversight.
5. **103-712.2.4.** The ORS suggests this article be amended to read: “This map shall be revised and submitted to the ORS annually unless such revision is unnecessary, in which event the utility shall notify the ~~Commission and the ORS~~ that the map on file is current. The map would show:....” This suggested change clarifies that revised maps, as well as notifications that there are no revisions, must be submitted annually to the ORS. In its currently revised format utilities would be required to make notification/filings with both the ORS and Commission. To ease the administrative burden on these regulated utilities and based on the fact that all such maps have been transferred to the ORS by the Commission the ORS would suggest that the utilities not be required to file such maps or notice with the Commission.
6. **103-712.2.4.** The ORS additionally suggests as regards this regulation that a sub-section (i) be added, after subsection (h), to read “(i) Location of cross-connection control devices.” The ORS believes that these cross-connection devices are an important feature on a water system as they prevent the cross contamination of a system. These devices should, therefore, be included on the operating area maps provided to the ORS by regulated utilities.
7. **103-712.3.** The ORS recommends that this regulation be amended to read: “Prior to operating, maintaining, acquiring, expanding or improving and water utility system, for which the Commissions approval is required, the utility shall have on file with the Commission, and provide a copy to the ORS, a performance bond with sufficient surety using a format prescribed by the Commission.”
8. **103-712.3.1.** The ORS would suggest that the second sentence of this regulation read: “The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve month period.” Further, that the fifth sentence of this regulation be changed to read: “The ~~Staff~~ ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility.”
9. **103-712.3.2.** The ORS recommends to the Commission that the regulations which concern the filing of performance bonds and the adequacy of surety be thoroughly examined and revised or amended.
10. **103-712.3.3.** The ORS would recommend that this Regulation be deleted in its entirety. It is impossible for the ORS to perform verification of information provided by the utilities on their financial statements and this filing is therefore irrelevant. Verification of assets and their true fair market value cannot be accurately determined. In order to protect consumers and the public, the ORS recommends to the Commission that the regulations which concern the filing of performance bonds, and in particular what constitutes sufficient surety, be examined and thoroughly amended.
11. **103-712.4(A)(15).** The ORS recommends that the language of this Regulation be amended to read: “Any other pertinent or relevant information determined by necessary by the Commission or the ORS.”
12. **103-712.4(B)(14).** The ORS would suggest that the language of this regulation be amended to read “Commission ~~and~~ or the ORS.”
13. **103-713.** In accordance with S.C. Code Ann. §58-3-200 the Commission may request an inspection by the ORS but may not conduct one itself. The ORS therefore suggests that Subsection A of the Regulation be amended to read: “Each utility shall, upon request of the

~~Commission or the~~ ORS provide to ~~the Commission or the~~ ORS a statement regarding the condition and adequacy of its plant, equipment, facilities, and services in such form as the ORS Commission may require itself or under the direction of the Commission.

14. **103-714.** References to “the Commission” should be removed in subsections (A) and (C) of this regulation. As the Commission may, in some cases, eventually be the arbiter of a case or cases arising out of such interruptions in service, the ORS suggests that the requirement that utilities notify the Commission of such interruptions be removed from this regulation to remove the possibility of potential conflicts and to simplify the utilities reporting requirements.
15. **103-715.** The ORS recommends that all references to “the Commission” and/or “the Chief Clerk of the Commission” be deleted in this Regulation as the ORS has the duty and personnel to administer accident investigations. Additionally, Commission knowledge of such occurrences may prejudice or taint any future proceedings before the Commission related to such accidents.
16. **103-730(C).** The ORS recommends that this regulation be amended to read: “Provide that a complete schedule, contract forms, rules and regulations, etc. as provided to the ~~Commission and the~~ ORS, shall also be on file in the local offices of the utility and shall be open to the inspection by the public.” As with other items discussed in this letter, this requirement of multiple filings by the utility seems unnecessary and may provide the Commission with documents or information outside the record of a future contested case.
17. **103-732.4.** The ORS suggests that this regulation be amended with the following language: “The utility at its option for good cause may refuse to accept a check tendered as payment on a customer’s account, and require payment in cash or other legal tender. “Good cause” must be justified by a water utility by evidencing a credit history problem with or of the utility customer or applicant. For the purposes of this regulation, the water utility may not consider indebtedness that was incurred by the customer or any member of his household more than six (6) years prior to the time of application.” The ORS recommends this change to the regulation to prevent arbitrary decisions by water utilities to demand cash payment from its customers.
18. **103-734(B).** The ORS suggests that the term “Public Service Commission” be replaced by “ORS.” Such a change would be in keeping with a similar change made to 103-534(B) and accurately reflect the location of the utilities tariffs.
19. **103-735(A).** The ORS recommends that the Commission substitute “Commission” with “ORS.” As the Commission no longer has inspectors, the determination of a hazardous or dangerous condition requiring the immediate unnoticed discontinuation of service must be made by ORS or DHEC inspectors.
20. **103-735(K).** The ORS again recommends that “Commission” be replaced with “ORS” as notice and enforcement should be a function of the ORS. Further, notice to the Commission may provide information to that body which would be outside the record in any potential proceedings regarding any such discontinuance of service.
21. **103-735.1(A).** The ORS recommends that a scrivener’s error be corrected by replacing the term “telephone utility” with “water utility.”
22. **103-735.1(B).** The ORS further recommends that the commission replace the reference to “the South Carolina Public Service Commission” with “the ORS.” Notice prior to the discontinuance of service should be provided to the water/wastewater division of the ORS as there is no longer such a function or personnel at the Commission. Further, knowledge by the Commission of such an action may prejudice the Commission in a future proceeding.
23. **103-737(2).** The ORS recommends that this regulation be amended to replace the word “Commission” with “ORS” as service area maps are no longer on file with the Commission. The maintenance of these maps is now an administrative function of the ORS.

24. **103-743.** The ORS recommends that a second paragraph be added to this regulation, making the current paragraph (A) and adding the following: “(B) A wastewater facility shall not be allowed to enter into a loan agreement without the approval of the Commission. This rule shall not apply to any loan agreement payable within one year from the date of the agreement, except in case of subsequent agreements made to refund such short-term obligations; but short term obligations may be renewed by similar obligations without the approval of the Commission for an aggregate period not exceeding two years. This rule shall not apply in the case of an emergency as determined by the Commission.” The ORS suggests this addition based on its concern that a utility may become obligated to an agreement that would impact the utility’s ability to continue to provide adequate wastewater service to its customers. A long-term loan agreement may affect the utility’s financial fitness, and thereby its willingness or ability to provide sewer service. The ORS further recommends that the title of this Regulation be changed to “Contracts and Financial Agreements.”
25. **103-752.** The ORS recommends that the materials referenced in this regulation be revised to read: “(a) The most current edition of Community Water Systems, Ameen” and “(b) Manual of Individual Water Systems E.P.A. No. 430 or the most current EPA edition.” As the Community Water Systems publication is now in its 6th edition the reference in the regulation is already out of date. ORS recommends the change to make the regulation adaptable to any future editions or amendments of these publications.
26. **103-756(B).** The ORS recommends that this Regulation be amended to read: “The utility shall assist in the verification of tests of water meters made by the ORS or its authorized representative.” This recommendation is based on the current functions of the two agencies and deflects any potential conflict for the Commission in future proceedings in which such verifications may be at issue.
27. **103-760(A).** The ORS recommends that the last word in this regulation, “Commission,” be replaced with “ORS.” This again accurately reflects the current duties of the two agencies as inspections are the responsibility of the ORS.
28. **103-761.** The ORS recommends that the remaining references to “the Commission” contained in sub-articles (b) and (d) be changed to “ORS” in keeping with the remainder of the language in the regulation.
29. **103-771 (C).** The ORS recommends that the words “the Commission” be removed from this Regulation. The Commission does not have the staff to respond to interruptions in service and its knowledge of such prior to the commencement of a docketed matter may provide it with information outside the record of a disputed case or controversy.
30. **103-781(B).** The ORS recommends that the word “Commission” be removed from this Regulation as the Commission’s knowledge of such information may prejudice the Commission in future proceedings regarding such accidents.

Thank you for allowing the Office of Regulatory Staff the opportunity to be a part of the workshop and other events involved in the development of these Regulations.

Yours Truly,



Jeffrey M. Nelson